

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 786 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI
and
Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

TULSIDAS CHUNILAL DEC

Appearance:

Mr V M Pancholi, AGP for Petitioners

CORAM : MR.JUSTICE M.H.KADRI
and
MR.JUSTICE D.P.BUCH

Date of decision: 26/07/2000

ORAL JUDGEMENT

By way of filing this appeal, the appellants have

challenged the judgment and award dated April 13, 1999 passed by the learned Civil Judge (SD), Godhra in Land Acquisition Reference Case No.398 of 1994 by which award, the respondent-claimants were awarded additional amount of compensation at the rate of Rs.12/- per sq. metre over and above the compensation offered by the Land Acquisition Officer at the rate of Rs.2/- per sq. metre.

2. The lands of the respondents situated at village Gariyal. Taluka Halol, were acquired for the public purpose of Dev Sanchai (Canal) Irrigation Scheme by notification under section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') dated September 22, 1988. The Land Acquisition Officer made his award and offered compensation to the respondent-claimants at the rate of Rs.2/- per sq. metre. Feeling aggrieved by the award made by the Land Acquisition Officer, the respondents filed reference application under section 18 of the Act requiring the Land Acquisition Officer to refer the matter to the District Court. The ld.Civil Judge (SD) in Land Acquisition Reference Case No.398/94 awarded Rs.12/per sq. metre as additional compensation by determining the market value of the acquired land as on September 22, 1988.

3. Claimants' witness Kailashben Govindbhai deposed on oath at Exh.22 and village form No.7/12 which are produced at Exh.16. She deposed that the acquired lands of previous award Exh.19 was in all respects relevant and comparable with the present acquired lands. The Reference Court, for determination of the market value of the present acquired lands, mainly relied on previous award of the same village and which was confirmed by the High Court and the Supreme Court. The learned AGP has not been able to point out any error committed by the Reference Court in placing reliance on the previous award of the Reference Court which was confirmed upto the Supreme Court in respect of similarly acquired lands of the same village wherein the market value of the acquired lands was determined at the rate of Rs.14/- per sq. metre as on September 22, 1988 which cannot be called excessive.

4. As a result of the foregoing discussion, this appeal is dismissed. The market value of the present acquired lands situated in village Gariyal is determined at the rate of Rs.14/- per sq. metre as on September 22, 1988. The claimants shall be entitled to statutory benefits under section 23(1-A) and 23(2) and interest under section 28 of the Act. However, it is clarified that the claimants shall not be entitled to solatium on

the additional amount payable under Section 23(1-A) and no interest shall be paid on the amount of solatium as per the decision of the Supreme Court in the case of Prem Nath Kapur v. National Fertilizers Corporation of India (1998 (2) SCC 71). In the facts and circumstances of the case, there shall be no order as to costs.

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[M H Kadri, J.]

[D P Buch, J.]

msp.